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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ARMANDO GIL-TSUN,

Defendant.

No. 07-70076 MEJ

~~PROPOSED~~ ORDER AND STIPULATION  
EXCLUDING TIME FROM APRIL 11, 2007  
TO MAY 9, 2007 FROM THE SPEEDY  
TRIAL ACT CALCULATION (18 U.S.C.  
§ 3161(h)(8)(A))

On February 7, 2007, the Honorable Maria Elena James issued a Complaint charging the Defendant with a violation of Title 8, Section 1326 and on February 9, 2007, the Defendant was arraigned on that Complaint. On February 15, 2007, the Defendant waived a detention hearing without prejudice and the matter was set for a Preliminary Hearing on February 26, 2007. On February 26, 2007, the Honorable Maria Elena James, upon Stipulation of the parties, ordered that the Preliminary Hearing be continued until March 19, 2007. On March 16, 2007 and March 28, 2007, the Honorable Joseph C. Spero, upon Stipulation of the parties, ordered that the Preliminary Hearing be continued until March 29, 2007 and April 11, 2007, respectively.

Counsel for the Government and Defendant are currently discussing a pre-indictment resolution of this case. Further, counsel for the Defendant does not believe it is in his client's

1 best interests for the government to indict the case within 30 days of arrest on the Complaint, as  
2 required under 18 U.S.C. § 3161(b).

3 Accordingly, the parties have agreed as follows:

- 4 1. The Preliminary Hearing shall be removed from the April 11, 2007 calendar and be  
5 continued until May 9, 2007.
- 6 2. The Defendant agrees to an exclusion of time under the Speedy Trial Act. Failure to  
7 grant the requested continuance would unreasonably deny both Government and Defense  
8 counsel reasonable time necessary for effective preparation, taking into account the  
9 exercise of due diligence, the need for both sides to investigate the facts of the case, and  
10 the on-going attempts to reach a pre-indictment disposition.
- 11 3. Given these circumstances, the parties agree and the Court should find that the ends of  
12 justice are served by excluding the period from April 11, 2007 to May 9, 2007 from the  
13 Speedy Trial Act calculation and outweigh the best interest of the public and the  
14 Defendant in a speedy trial. Id. § 3161(h)(8)(A).

15 IT IS SO STIPULATED.

16 DATED: April 10, 2007

/s/  
\_\_\_\_\_  
DENISE MARIE BARTON  
Assistant United States Attorney

19 DATED: April 10, 2007

/s/  
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STEVEN J. KOENINGER  
Attorney for ARMANDO GIL-TSUN

21 **IT IS SO ORDERED.**

22 Pursuant to the parties' Stipulation and for the reasons set forth above, the Preliminary Hearing  
23 shall be removed from the April 11, 2007 calendar and continued until May 9, 2007 and the time  
24 from April 11, 2007 to May 9, 2007 shall be excluded from the Speedy Trial Act calculations.

26 DATED: 4/11/07

  
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THE HON. EDWARD M. CHEN  
United States Magistrate Judge